

1 not actually here that early.

2 THE COURT: Well, I didn't remember her being
3 sworn. Y'all kind of keep me apprised of that, if you
4 will.

5 MR. EVANS: Yes, sir.

6 Your Honor, can I have just a minute to pull a file?
7 I thought that box was in here.

8 THE COURT: (Nodded.)

9 (MR. EVANS LEFT THE COURTROOM.)

10 (THE WITNESS ENTERED THE COURTROOM AND WAS ADMINISTERED
11 THE OATH.)

12 THE COURT: Miss Fleming, have a seat right up
13 here.

14 (THE WITNESS WAS SEATED ON THE WITNESS STAND.)

15 (MR. EVANS RETURNED TO THE COURTROOM.)

16 THE COURT: State your name, please.

17 THE WITNESS: Clemmie Flemming.

18 MR. EVANS: May I proceed, Your Honor?

19 THE COURT: Um-hum.

20 MR. EVANS: Thank you.

21 CLEMMIE FLEMMING, Called on behalf of the State, having
22 been duly sworn, was examined and testified as follows:

23 DIRECT EXAMINATION BY MR. EVANS:

24 Q. Good morning, Miss Flemming.

25 A. Good morning.

26 Q. Miss Flemming, I want to direct your attention back
27 to July 16 of 1996, the morning of the murders at Tardy
28 Furniture. Do you remember that morning?

29 A. Yes, sir.

1 Q. Did you have --

2 THE COURT: Miss Flemming, I can't hear you; so
3 I know the jurors can't hear you. You are going to have
4 to speak up.

5 THE WITNESS: Yes, sir.

6 Q. (By Mr. Evans:) Did you have an occasion to go to
7 Tardy Furniture that morning?

8 A. Yes, sir.

9 Q. You are going to have to speak louder.

10 A. Yes, sir.

11 Q. What time did you go there?

12 A. At 10:00.

13 Q. About 10:00 in the morning. How did you go to Tardy
14 Furniture about 10:00 that morning?

15 A. With Roy Harris.

16 Q. With Roy Harris. Why did you go to Tardy Furniture?

17 A. To pay on my furniture note.

18 BAILIFF: The jury says they still can't hear
19 her.

20 THE COURT: Ma'am, that lady all the way over
21 there in the corner has to hear you. Okay.

22 Q. (By Mr. Evans:) That microphone doesn't amplify
23 your voice. So just speak real loud.

24 A. To pay on my furniture note.

25 Q. You say it was about 10:00 in the morning.

26 A. Yes, sir.

27 Q. What was your physical condition at that time?

28 A. I was pregnant.

29 Q. How far along were you?

1 A. About five months.

2 Q. Did you, in fact, at that time go in and pay on your
3 note at Tardy Furniture?

4 A. No.

5 Q. Why not?

6 A. I didn't feel like it.

7 Q. You didn't feel like it. Was it because of the
8 pregnancy?

9 A. Yes, sir.

10 Q. Did you -- what direction did y'all pull, when you
11 came to the store?

12 A. We, we went behind. We came in front of the store.
13 Then we pulled behind the store.

14 Q. Okay.

15 A. On the side of the road beside it.

16 Q. On the road that goes beside Tardy Furniture.

17 A. Yes, sir.

18 Q. Did you see anything as you pulled on to the road
19 beside Tardy Furniture?

20 A. Yes, sir.

21 Q. What did you see?

22 A. Curtis.

23 Q. Curtis who?

24 A. Flowers.

25 Q. Where was Curtis Flowers when you pulled beside
26 Tardy Furniture around 10:00 that morning?

27 A. Running on the side of it.

28 Q. How long had you known Curtis Flowers?

29 A. Ever since I can remember.

1 Q. So basically all your life.

2 A. Yes, sir.

3 Q. Is there any question about who you saw running by
4 Tardy Furniture that morning?

5 A. No, sir.

6 Q. Did you ever have an occasion to go back out there
7 and show any officers where you saw him running?

8 A. Yes, sir.

9 Q. Who did you meet or go out there with?

10 A. John Jones.

11 Q. And did you have an occasion to actually step off
12 how far from the store it was that you actually saw him when
13 you first saw him running?

14 A. Yes, sir.

15 Q. How many steps was that?

16 A. Ninety-two.

17 Q. And is that your steps?

18 A. Yes, sir.

19 Q. Was he running toward or away from Tardy Furniture?

20 A. Away.

21 Q. How was he running?

22 A. Like somebody were after him.

23 Q. Was he jogging or running fast?

24 A. Running fast.

25 Q. Did you make any comments about who you saw?

26 A. I said it's Curtis.

27 Q. So you told Roy Harris that was driving you that's
28 Curtis.

29 A. Yes, sir.

1 Q. So you knew who he was immediately.

2 A. Yes, sir.

3 Q. Which direction did Roy drive after you saw Curtis
4 running?

5 A. On like up Church Street and then down Powell
6 Street.

7 Q. Okay. Now, there used to be -- I don't know. I
8 don't think they are both still there. There used to be two
9 big trees right over there on the side close to Tardy
10 Furniture, didn't it?

11 A. Yes, sir.

12 Q. Which tree was -- or where was he in relationship to
13 the trees when you saw him running?

14 A. By the tree.

15 Q. By which tree?

16 A. The first tree.

17 Q. The first one closest to Tardy Furniture.

18 A. Yes, sir.

19 Q. All right. Which direction -- let me get back to
20 that. Which direction did y'all go in the car after you saw
21 him running?

22 A. Went left.

23 Q. You took a left.

24 A. Yes, sir.

25 Q. Do you know the name of the street you look a left
26 on?

27 A. Carrollton Avenue, I think.

28 Q. Carrollton Avenue. Where did you go from there?

29 A. Well, I went over my sister's house.

1 Q. I mean which roads did y'all go on.

2 A. Up Carrollton Avenue and down Powell Street. Down
3 Powell Street.

4 Q. All right. And which direction did you go from
5 there?

6 A. We come to the highway.

7 Q. Which --

8 A. On 51.

9 Q. Highway 51. Did you come back up?

10 A. Go back -- yes, sir.

11 Q. On 51. So you went -- took a left on Carrollton,
12 hit Powell Street, went down to the highway and then came back
13 up 51; is that correct?

14 A. Yes, sir.

15 Q. Did you have an occasion to see Curtis Flowers again
16 as you came up 51?

17 A. Yes, sir.

18 Q. Where did you see him then?

19 A. Fixing to cross the highway.

20 Q. He was crossing the highway.

21 A. Yes, sir.

22 Q. Which direction was he going?

23 A. I guess his daddy was working at the store. I guess
24 he was going to the store.

25 Q. All right. What store is that?

26 A. Stop-n-Go.

27 Q. Was he crossing there at the store?

28 A. I guess he was going to the store. I don't know.
29 He could have been going home.

1 Q. Okay. But I mean that is where he was crossing.

2 A. Yes, sir.

3 Q. You don't know where he was going.

4 A. (Shook head.)

5 Q. I am just asking you where he was.

6 A. Yes, sir.

7 Q. Miss Fleming, is there any question about who you
8 saw running about 10:00 the morning of the murders, close to
9 Tardy Furniture, going away from Tardy Furniture?

10 A. No, sir.

11 MR. EVANS: Tender the witness, Your Honor.

12 One second.

13 Q. (By Mr. Evans:) If you would, point to and identify
14 the person you saw running away from Tardy Furniture the
15 morning of the murders.

16 A. Right. (Pointed.)

17 MR. EVANS: May the record reflect that she has
18 identified the defendant?

19 THE COURT: Let the record reflect that.

20 CROSS-EXAMINATION BY MR. CARTER:

21 Q. Miss Flemming, is it possible to turn off
22 Carrollton, Carrollton on to Powell?

23 A. No, sir.

24 Q. So, so what road did you and Mr. Johnson take after
25 you left Tardy?

26 A. We came off Carrollton Avenue, that little store.
27 It's a street right there beside it, and then you go on down.
28 And then you come to Powell Street. You got to take a right
29 and get on Powell Street.

1 Q. So, in fact, you had to take another street to get
2 to Powell from Carrollton; is that correct?

3 A. Yes, sir.

4 Q. Okay. Now, this person you saw running, what kind
5 of clothes did they have?

6 A. I don't know. I just know his face.

7 Q. Okay. And so when y'all drove by, he turned and
8 looked towards the vehicle. Is that your testimony?

9 A. I don't know what he was looking at. He was just
10 running and --

11 Q. When you turned from Front Street in front of
12 Tardy's and make that right on Carrollton --

13 A. Um-hum.

14 Q. -- the person you saw running, was he in front of
15 you or behind you?

16 A. In front of me.

17 Q. Was he in the road, or was he on the grass?

18 A. On the grass.

19 Q. On the grass.

20 A. On the side.

21 Q. Now, you didn't see this person on Front Street; is
22 that correct?

23 A. No. Not on Front Street.

24 Q. Okay. Now, you didn't see this person -- there is a
25 street right behind Tardy's called Vine. You know that little
26 street? Some people may call it Alley Way, right behind
27 Tardy's. Do you recall that there is a street there?

28 A. Beside it?

29 Q. Hmm?

1 A. What street you say?

2 Q. Isn't there a street that runs parallel right behind
3 Tardy's?

4 A. It's a street right there.

5 Q. You didn't see Mr. -- that person on that street,
6 did you? This person you saw, were they near, I think Church
7 Street is the street that you run into off Carrollton. The
8 person you saw, was he at Church Street?

9 A. Church Street. No.

10 Q. He was on Carrollton. Which way did this person go
11 after they turned off Carrollton?

12 A. I wasn't paying no attention like that.

13 Q. Okay. Now, what period of time did you observe this
14 person? Was it just a quick glance, and you turned and you
15 never looked again? Or did you turn around and actually take
16 a long look at this person?

17 A. No.

18 Q. Just took a quick look?

19 A. Yes, sir.

20 Q. Okay.

21 BAILIFF: Your Honor, the jury keeps saying
22 they can't hear her testimony.

23 THE COURT: Miss Flemming, you just have to
24 talk louder than you are talking. Okay?

25 THE WITNESS: (Nodded.)

26 Q. (By Mr. Carter:) At what point did you tell Mr.
27 Johnson or Mr. Evans or somebody that you saw Curtis Flowers?

28 A. When they came out to my house.

29 Q. How long ago was that after the killings at Tardy?

1 A. I don't know. I wasn't going to say nothing. It
2 wasn't my business.

3 Q. Is it fair to say that it was April 11, 1997? Can
4 you dispute that?

5 A. I don't know when it was.

6 Q. But you do know that it was several months
7 afterwards that the incident took place at Tardy; is that
8 correct?

9 A. Yes.

10 Q. And you gave a taped statement; is that correct?

11 A. Yes.

12 Q. And you said he was running like somebody was after
13 him. How, how -- give us a description of how you look when
14 somebody is --

15 A. He was just running.

16 Q. Just running.

17 A. Um-hum.

18 Q. Now, so the truth is that person that was running,
19 you don't know if they were running like somebody was after
20 them or not; is that correct?

21 A. I don't know if anybody was after them or not.

22 Q. What made you think the person was running like
23 somebody was after them? You do agree that that is a
24 description you gave at some point; is that correct?

25 A. Um-hum.

26 Q. What made you think this person was running like
27 somebody was after them?

28 A. I was just trying to describe how he was running.

29 Q. Did you see -- was this person carrying anything

1 that you could tell?

2 A. I don't know if he was. I don't know.

3 Q. Did the person have a cap on, or do you know?

4 A. (Shook head.)

5 Q. Now, did you say at some point that this person was
6 running towards Campbell, or is that a mistake on somebody
7 else's part?

8 A. I ain't said they were running toward Campbell.
9 Towards --

10 Q. Towards Campbell?

11 A. Towards Campbell. No, sir.

12 Q. You didn't say that?

13 A. (Shook head.)

14 Q. Now, isn't it a fact that you -- strike that.

15 Now, the day that you went to Tardy's, you said you
16 didn't go in Tardy's. Did y'all actually stop at Tardy's and
17 sit there for a while? Did Mr. Harris stop his car, pull up
18 in front of Tardy's?

19 A. He stopped and pulled right there.

20 Q. How long did y'all sit there, if at all?

21 A. I tried to get him to go in. He didn't want to go
22 in. I said well, let's go.

23 Q. Did you know about a reward being offered for help
24 on identifying who could have been involved in this?

25 A. I don't care about no reward.

26 Q. You didn't hear about one.

27 A. His life more important than a reward. I don't do
28 that.

29 Q. I'm sorry.

1 A. I said his life more important than a reward. I
2 wouldn't of did that.

3 Q. Do you know Stacy Wright?

4 A. Yes.

5 Q. Do you know Latarsha Blissett?

6 A. Yes.

7 Q. Is it fair to say that they are or were friends of
8 yours?

9 A. My cousins.

10 Q. Aren't they also friends though?

11 A. Um-hum.

12 Q. Now, at some point you, you owed Tardy Furniture
13 Store some money, is that correct, for some furniture? Did
14 you ever pay them?

15 A. My brother supposed to have been paying it.

16 Q. I'm sorry.

17 A. My brother supposed to have been paying it.

18 Q. Okay. But you know you didn't pay. Were you with
19 your brother when he paid it?

20 A. No.

21 Q. Okay. So you really don't know if he paid it or
22 not; is that correct?

23 A. No.

24 Q. Now, after you and Mr. Harris left, where did --
25 where did Mr. Harris finally take you?

26 A. Over my sister's house.

27 Q. What is your sister's name?

28 A. Mary Flemming. Mary Flemming.

29 Q. Is it the same person as Mary Ella?

1 A. Yes.

2 Q. When you got to your sister's house, who else was
3 there?

4 A. My other sister niece.

5 Q. Wasn't there somebody else there also or somebody
6 came up later?

7 A. I don't know. One of my sister's friends.

8 Q. Okay. Do you remember his name or nickname?

9 A. B.T.

10 Q. Okay. And is it a fact that you actually went
11 somewhere with them later?

12 A. No.

13 Q. You didn't get in the car with your sister and this
14 B.T. and go somewhere later.

15 A. (Shook head.)

16 Q. Okay. Okay. When you got down to -- correct me if
17 I'm wrong, but I think you said it was about 10:00 when you
18 got down to Tardy's; is that correct?

19 A. Yes.

20 Q. And you didn't see any -- anything unusual going
21 around, around in the area; is that correct?

22 A. No.

23 Q. In fact, was there other cars at all parked in that
24 location?

25 A. Yes.

26 Q. Where were they parked?

27 A. Over on like -- over like behind a car.

28 Q. Behind where y'all park?

29 BAILIFF: Your Honor.

1 A JUROR: We are still having problems hearing
2 her.

3 THE COURT: Okay. You hear that, Miss
4 Flemming?

5 THE WITNESS: Yes, sir.

6 THE COURT: See, I couldn't even hear what you
7 just told me. You have to talk louder. Okay?

8 THE WITNESS: (Nodded.)

9 THE COURT: Speak up now. Answer the man's
10 question.

11 A. Yes.

12 Q. Were there a lot of cars, or was it just one or two,
13 as best you recall?

14 A. I don't know.

15 Q. What was your answer?

16 A. It was some parked on the other side. Like, we were
17 parked in front, pulled in front of the store. Some behind
18 it.

19 Q. Okay. Did you see an old man walking the sidewalk?

20 A. No.

21 Q. Do you know Mr. Sam Jones?

22 A. Yes.

23 Q. You didn't see him?

24 A. No.

25 Q. Did you tell your sisters what you had witnessed
26 when you got to their house?

27 A. No.

28 MR. CARTER: One moment, Your Honor. I think
29 I'm about -- one moment, Your Honor.

1 Q. (By Mr. Carter:) Miss Fleming, one final question.
2 Strike that. I'm sorry.

3 We tender.

4 REDIRECT EXAMINATION BY MR. EVANS:

5 Q. Miss Fleming, speak loud. When did you first make a
6 comment to Roy Harris there goes Curtis Flowers?

7 A. When I was in the car with him.

8 Q. When you saw him running away from the store; is
9 that right?

10 A. I don't know where he was running from.

11 Q. Was he running from the direction of the store?

12 A. Yes, sir.

13 Q. Okay. Miss Fleming - I'll turn this around in just
14 a minute - but can you see on this photograph the road that
15 you saw the defendant, Curtis Flowers, running down?

16 A. Yes, sir.

17 Q. Would you step down, please?

18 A. (Complied.)

19 Q. Point out for the ladies and gentlemen of the jury
20 the area where you saw this defendant running.

21 A. (Indicated.)

22 Q. And you are pointing to an area that has a red "X"
23 on it.

24 A. (Nodded.)

25 Q. You need to speak up.

26 A. Yes, sir.

27 Q. Did you previously put an "X" on the spot that you
28 saw him running?

29 A. Yes, sir.

1 Q. You may take the seat.

2 A. (Complied.)

3 MR. EVANS: Nothing further, Your Honor.

4 THE COURT: You may return --

5 MR. EVANS: Oh, one second. Oh, yes, sir. I'm
6 sorry. I did not identify what chart I was using.

7 THE COURT: Okay.

8 MR. EVANS: For the record, the chart is S-A-5,
9 Your Honor.

10 THE COURT: I believe it is a photograph, not a
11 chart.

12 MR. EVANS: Yes, sir. Well, yes, sir.

13 THE COURT: Okay.

14 MR. EVANS: Blown-up photograph.

15 THE COURT: All right. Okay. Miss Fleming,
16 you need to step down.

17 Ladies and gentlemen, we are going to take a break
18 at this time.

19 (THE JURY LEFT THE COURTROOM.)

20 MR. CARTER: We still need her, Your Honor. We
21 still need her as a witness.

22 THE COURT: I didn't let her go. I sent her
23 back to the witness room.

24 Court will be in recess.

25 (A RECESS WAS TAKEN. PROCEEDINGS RESUMED IN OPEN COURT.

26 MR. EVANS, MR. HILL, MR. CARTER, MR. DEGREY AND THE DEFENDANT
27 WERE PRESENT. PROCEEDINGS WERE AS FOLLOWS:)

28 (THE JURY RETURNED TO THE COURTROOM.)

29 MR. HILL: Your Honor, we are going to call